

16.12.2022
Sl..859
sn

W.P.A. No. 5349 of 2016
Himansu Ranjan Sarkar & Ors.
Versus
The State of West Bengal & Ors.

Mr. Anjan Bhattacharyya
....for the Petitioners.

Despite service, none appears on behalf of the State respondents. Let the affidavit-of-service be taken on record.

The petitioners pray for pension and other retirement benefits upon condonation of the shortfall in service. He prays that the authorities deliberately refused to grant appointment at the time when the petitioners had been selected and hence the petitioners were not at fault. Had the appointment been made upon conclusion of the recruitment process, the petitioners would have worked for more than 15 years.

It is the contention of the petitioners that the selection process was completed in 1986, but the authority failed to implement the said selection process.

Thereafter, several litigations continued before this Court at the instance of other selected candidates. Finally, the authorities were directed by a Division Bench to take

steps for appointment of the empanelled candidates. The petitioners were such empanelled candidates.

Reliance has been placed on the Division Bench judgment of this Court dated January 17, 2007. Aggrieved, by the said judgment, the State of West Bengal preferred a Special Leave Petition before the Hon'ble Supreme Court, which was dismissed.

The appointment letters were issued. The petitioners joined the post within time, after having executed an agreement and upon being satisfied with the terms and conditions thereof.

It also appears that the Division Bench had specifically observed that it would not be proper for the Court to fix the cut off date from August 13, 1998. It was observed that interest of justice would be sub-served if the persons who could not be appointed due to the delay by the State-respondents, were granted liberty to pray for appropriate compensation by approaching the civil court.

The Division Bench had directed the State to consider the case of all the empanelled candidates by applying the date of judgment, that is January 17, 2007 as a cut off date instead of any prior date. The State was also directed to grant the appointments as early as possible

especially in cases of those persons who had 5 years or less of service life.

Mr. Bhattacharya, learned Advocate appearing on behalf of the petitioner submits that the order of the Division Bench would not affect the rights of the petitioners.

The specific contention of the State-respondents before the Division Bench was that there were many candidates who would not complete even five years of service and they would not be entitled to any post retirement benefits.

Analysing the entire issue, the Division Bench decided that the cut off date for the appointment arising out of the selection process of 1986 initiated by the State of West Bengal to fill up the post of 'Gram Shevak' would be January 17, 2007. The cases of those candidates, who had 5 years or less tenure, should be given priority in case of grant of appointment .

It appears that agreements were also executed by the said candidates when they joined their duties. The order was in respect of all empanelled candidates. Thus, this is not simpliciter a case of condonation of a short fall in pensionable service.

The writ petition is disposed of with a direction upon the Joint Secretary to the Government of West Bengal, Department of Panchayats and Rural Development, to treat the writ petition as a representation of the petitioner and decide the question of condonation of the shortfall in his pensionable service, under the facts and circumstances narrated hereinabove especially when the cut off date had been fixed by the Division Bench.. The petitioners will be entitled to be represented by a learned Advocate, before the authority.

Upon completion of the hearing, a reasoned order shall be passed and communicated within a period of three months from the date of communication of this orders.

A copy of this writ petition along with a server copy of this order be served upon the authority.

The writ petition is, thus, disposed of.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)